Single Bench

(4)

**IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)**

Writ Petition ....6057..... / 2006

**PETITIONER** : ***Durga Motor Service***, through partner Vijay Kumar Gupta, R/o Old Bus Stand, Ambikapur (C.G.).

**// VERSUS //**

**RESPONDENTS** : 1. ***State Transport Appellate Tribunal***, State of Chattisgarh at Raipur (C.G.).

2. ***Regional Transport Authority***, Raipur (C.G.).

3. ***Shri Narul Haque*** S/o Abdul Haque R/o Kharsia Naka, Ambikapur (C.G.).

P.R. No. 5978/06
Presented by Shri A.M. Tiwari
dated 30-10-06

**WRIT PETITION UNDER ARTILE 226/227 OF THE CONSTITUTION OF INDIA**

(61)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. No. 6057 of 2006

| | | |
|---|---|---|
| Petitioner | | Durga Motor Service, Ambikapur |
| | Versus | |
| Respondents | | State Transport Appellate Tribunal, Chhattisgarh, Raipur and others |

**SB**: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

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Shri B. K. Rawat, Advocate for the petitioner.

Shri Utkarsh Verma, Govt. Advocate for the respondent No.2.

Shri B. P. Gupta, Advocate for the respondent No.3.

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ORDER

(Passed on this 20th day of February, 2007)

1. By way of this petition the petitioner impugns the order dated 5.9.2005 (Annexure P/4) passed by the State Transport Appellate Tribunal in Revision No. 129/2006, as also the order dated 3.4.2006 (Annexure P/2) passed by the Regional Transport Authority, Raipur.

2. Learned counsel appearing for the respondent No.2 fairly submits that with regard to the change of timing, different than the timings published, no opportunity of hearing was afforded to the petitioner, though other objectors were present and agreed for the grant of timing and vide order dated 3.4.2006 (Annexure P/2) the permission was granted to the respondent No.3 for running stage carriage as under:-

"उपरोक्त तथ्यों को दृष्टिगत रखते हुए आवेदक श्री नुरूल हक निवासी खरसिया नाका, अंबिकापुर जिला सरगुजा को मार्ग अंबिकापुर से रायगढ व्हाया सीतापुर, धर्मजयगढ पर दो एकल फेरे गात्री वाहन संचालन हेतु मोटरयान अधिनियम 1988 की धारा 72 एवं 84 तथा सहपठित छत्तीसगढ मोटरयान नियम 1994 के नियम

(62)

77 के अनुषरण में पांच वर्षों के लिए प्रकम वाहन सेवा स्थायी अनुज्ञापत्र निम्न अतिरिक्त शर्तों के साथ स्वीकृत किया जाता है :–

1 यात्री वाहन का समय चक निम्नानुसार रहेगा :–

| अंबिकापुर | पत्थलगांव | रायगढ |
|---|---|---|
| 14.32 प्रस्थान | 17.40 | 20.15 आगमन |
| 12.12 आगमन | 09.15 | 05.50 प्रस्थान " |

3. In view of the fact that the petitioner was not heard on the change of timings other than the published timings in the notice, this Court is of the opinion that the interest of justice would be sub-served if the petitioner along with all concerned are given an opportunity for putting forward their cases before the respondent No.2 for reconsidering the order dated 3.4.2006 and pass appropriate order in accordance with law.

4. In view of the aforestated submissions, the order dated 5.9.2005 (Annexure P/4) and the order dated 3.4.2006 (Annexure P/2) are quashed. The matter is remanded back to the Regional Transport Authority, Chhattisgarh, Raipur to consider this matter aftesh, within a period of two weeks, after issuing proper notice to all the concerned. In the meantime the respondent No.3 would be permitted to operate as per the order dated 3.4.2006.

5. With the above observations, the matter stands allowed to the above extent. No order as to costs.

Certified copy, as per Rules.

Sd/-
Satish K. Agnihotri
Judge

Thakur